

**KESSLER TOPAZ
MELTZER & CHECK, LLP**
Ramzi Abadou (SBN 222567)
580 California Street, Suite 1750
San Francisco, CA 94104
Telephone: (415) 400-3000
Facsimile: (415) 400-3001

BINGHAM MCCUTCHEN LLP
Peter Obstler (SBN 171623)
Zachary J. Alinder (SBN 209009)
Elizabeth Benson (SBN 268851)
Three Embarcadero Center
San Francisco, CA 94111
Telephone: (415) 393-2000
Facsimile: (415) 393-2286

- and -

Counsel for Defendants

Edward W. Ciolko (*pro hac vice*)
Terence S. Ziegler (*pro hac vice*)
Donna Siegel Moffa (*pro hac vice*)
Michelle A. Coccagna (*pro hac vice*)
280 King of Prussia Road
Radnor, PA 19087
Telephone: (610) 667-7706
Facsimile: (610) 667-7056

Counsel for Plaintiff and the Proposed Class
[Additional counsel listed on signature page]

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

PATRICIA MCNEARY-CALLOWAY,
individually and on behalf of all others similarly
situated,

Plaintiff,

v.

JPMORGAN CHASE BANK, N.A. and CHASE
BANK USA, N.A.,

Defendants.

Case No.: 11-cv-03058-JCS

**STIPULATION AND ~~PROPOSED~~
ORDER REGARDING FILING OF
AMENDED COMPLAINT
PURSUANT TO FED. R. CIV. P.
15(a)(1)(B)**

Action Filed: June 20, 2011
Judge: Hon. Joseph C. Spero

Patricia McNeary-Calloway ("Plaintiff") and Defendants JPMorgan Chase Bank N.A. and Chase Bank USA N.A. (collectively, "Defendants") (together, the "Parties") respectfully submit the following Joint Stipulation pursuant to Fed. R. Civ. P. 15(a)(1)(B) regarding the filing of Plaintiff's First Amended Complaint (the "FAC"), attached hereto as Exhibit A.

WHEREAS Plaintiff filed a Class Action Complaint (the "Complaint") against Defendants on June 20, 2011 (ECF No. 1);

1 WHEREAS on August 19, 2011, Defendants filed a Motion to Dismiss the Complaint (the
2 “Motion to Dismiss”) (ECF No. 23);

3 WHEREAS pursuant to the Court’s Order regarding the Joint Stipulation to Extend the Time
4 for Plaintiff to Respond to the Motion to Dismiss, filed September 28, 2011 (ECF No. 35), Plaintiff’s
5 response to the Motion to Dismiss was initially due October 10, 2011 (ECF No. 36);

6 WHEREAS as noted in the Joint Stipulation to Extend the Time for Plaintiff to Respond to
7 the Motion to Dismiss, Plaintiff was preparing to file an Amended Complaint to this action to add
8 additional parties and/or additional claims;

9 WHEREAS on October 7, 2011 the Parties filed a Joint Stipulation reiterating Plaintiff’s
10 intention to file an Amended Complaint and requesting seven additional days for Plaintiff to finalize
11 the proposed Amended Complaint in light of discussions amongst co-counsel, discussions with
12 proposed plaintiff and due to the upcoming Jewish holidays (ECF No. 37);

13 WHEREAS on October 12, 2011 the Court Ordered that Plaintiff respond to the Motion to
14 Dismiss on or before October 17, 2011 in order to provide Plaintiff additional time to complete and
15 finalize the proposed Amended Complaint (ECF No. 38);

16 WHEREAS all Parties have stipulated and agreed to the filing of the FAC, and agreed to the
17 response, briefing and hearing schedules proposed below.

18 **IT IS HEREBY STIPULATED AS FOLLOWS:**

19 1. Plaintiffs shall file their First Amended Complaint on or before October 17, 2011;
20 2. Defendants’ Motion to Dismiss the original Complaint shall be vacated as moot; and,
21 3. Defendants shall have until November 21, 2011 to respond to Plaintiff’s First
22 Amended Complaint. If Defendants’ response is a motion to dismiss or other pleading motion rather
23 than an answer, Plaintiff’s opposition shall then be due on or before December 30, 2011, and
24 Defendants’ reply would be due on or before January 25, 2011. The hearing shall then be set for
25 ~~February 17, 2012~~ March 9, 2012 - JCS at 9:30 a.m., or as soon thereafter as the Court’s schedule permits. The Parties
26 further agree and respectfully request that the Court set the initial case management conference for
27 the same date as the hearing on Defendants’ renewed motion to dismiss, consistent with the Court’s
28 prior case management schedule (*see* Docket No. 34), and with the joint case management statement

1 due one week before the case management conference. All other dates shall run in accordance with
2 the Federal Rules of Civil Procedure and the Local Rules of the United States District Court for the
3 Northern District of California.

4 **IT IS SO STIPULATED.**

5
6 Dated: October 17, 2011

Respectfully submitted,

/s/ Edward W. Ciolko

Edward W. Ciolko (*pro hac vice*)

eciolko@ktmc.com

Terry S. Ziegler (*pro hac vice*)

tziegler@ktmc.com

Donna Siegel Moffa (*pro hac vice*)

dmoffa@ktmc.com

Michelle A. Coccagna (*pro hac vice*)

mcoccagna@ktmc.com

KESSLER TOPAZ

MELTZER & CHECK LLP

280 King of Prussia Road

Radnor, PA 19087

Tel: (610) 667-7706

Fax: (610) 667-7056

-and-

Ramzi Abadou (SBN 222567)

rabadou@ktmc.com

580 California Street, Ste. 1750

San Francisco, CA 94104

Tel: (415) 400-3000

Fax: (415) 400-3001

Jeffrey J. Angelovich (*pro hac vice*)

Michael B. Angelovich (*pro hac vice*)

Brad E. Seidel (*pro hac vice*)

NIX PATTERSON & ROACH LLP

205 Linda Drive

Daingerfield, TX 75638

Tel: (903) 645-7333

Fax: (903) 645-4415

Attorneys for Plaintiff and the Proposed Class

1 Dated: October 17, 2011

BINGHAM McCCUTCHEN LLP

/s/ Peter Obstler (with consent)

Peter Obstler (SBN 171623)

peter.obstler@bingham.com

Zachary J. Alinder (SBN 209009)

zachary.alinder@bingham.com

Elizabeth Benson (SBN 268851)

elly.benson@bingham.com

Three Embarcadero Center

San Francisco, CA 94111

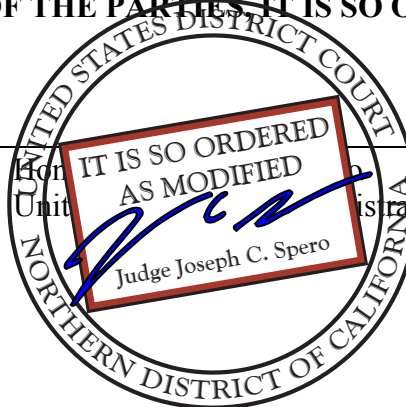
Tel: (415) 393-2000

Fax: (415) 393-2286

Attorneys for Defendants

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13 **PURSUANT TO THE STIPULATION OF THE PARTIES, IT IS SO ORDERED.**

14
15 Dated: 10/19/2011



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FILER'S ATTESTATION

Pursuant to General Order No. 45, § X(B), I attest under penalty of perjury that concurrence in the filing of the document has been obtained from all of the signatories.

DATED: October 17, 2011

**KESSLER TOPAZ
MELTZER & CHECK, LLP**

By: /s/ Edward W. Ciolko
Edward W. Ciolko

CERTIFICATE OF SERVICE

I hereby certify that on October 17, 2011, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses of all counsel of record.

/s/ Edward W. Ciolko

Edward W. Ciolko